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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,216	11/16/2005	Anne-Valerie Ruzette	033808R197	9182

441 7590 02/18/2009

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EXAMINER

MULLS, JEFFREY C

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

02/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/502,216

Applicant(s)

RUZETTE ET AL.

Examiner

Jeffrey C. Mullis

Art Unit

1796

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-18, 20, 21 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-10, 13, 21, 29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12, 14-18, 20, 24-28 and 31-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 14-15, 17, 18, 24-28 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guerret et al. (WO 00/71501, using 6657043 as a translation) in view of Fischer et al. (US 6,239,226) and Coran et al. (US 4,473,683).

See the Office action of 8-5-08 at page 4, lines 1 et seq.

Claims 16 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guerret et al. (WO 00/71501, using 6657043 as a translation) in view of Fischer et al. (US 6,239,226) as applied to claim 12 above and further in view of Pourallmady (EP 0947527)

See the Office action of 8-5-08 at page 6, lines 9 et seq.

Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guerret et al. (WO 00/71501, using 6657043 as a translation) in view of Fischer et al. (US 6,239,226) as applied to claim 12 above and further in view of Billovitis et al (WO 98/52978).

See the Office action of 8-5-08 at page 7, lines 6 et seq.

Applicant's arguments filed 12-5-08 have been fully considered but they are not persuasive. With regard to the use of a brittle matrix such is taught by Coran at column 1, lines 26-27 and the previous Office action sets out reasons for use of the combination of (brittle) polystyrene matrix and Guerrets' block copolymers. See page 5, of the previous Office action at the last complete paragraph thereof. Applicants argue that there are no examples of production of block copolymers in the presence of nitroxide in the primary reference. Applicant argues that Fischer does not teach or suggest controlled radical polymerization with a nitroxide. However such an argument is piecemeal analysis of the above rejection. Fischer has not been relied upon for use of nitroxides or alcoxyamines in any context or any of the other reasons cited by applicants except for production of blends. Fischer discloses that their block copolymers are compatibilizers and for this reason alone those skilled in the art would assume compatibility with any matrix aside from the fact that Fischer and Guerrets' block copolymers both have polystyrene blocks which would be expected to be compatible with polystyrene. With regard to Coran applicants are reminded that Coran is used solely for claim 32 for the amount of brittle matrix which spans the range of 10-85%. The disclosure of Coran is optional in this case given broad range recited by the claims and given that only a small portion of the conceivable range of percentages (0-100%) of block copolymer in a block copolymer containing composition would have to be chosen to lie outside of the scope of the claims. Pourallmady and Billovits have not been used

for any teachings regarding a brittle matrix, nor is this necessary to meet the limitations of the claims as set out above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis
M-F, 9-5 pm at telephone number 571 272 1075.

Jeffrey C. Mullis
Primary Examiner
Art Unit 1796

JCM

2-15-09

/Jeffrey C. Mullis/

Primary Examiner, Art Unit 1796

